

**ILLINOIS STATE POLICE MERIT BOARD
OF THE STATE OF ILLINOIS**

IN RE THE MATTER OF:

**TROOPER JENNIFER WHISENAND
I.D. # 6436**



**Illinois State Police
Merit Board No. 16 - 01**

DECISION

THIS CAUSE comes before the Merit Board on a one-count *Complaint* filed by Leo P. Schmitz, Director of the Illinois State Police, following a full hearing before duly appointed Merit Board Hearing Officer, R. Mark Mifflin.

FINDINGS OF FACT

The Merit Board, having reviewed the charges filed, the evidence and testimony submitted, the Briefs of Counsel, and the Hearing Officer's *Recommended Findings of Fact and Conclusions of Law*, does hereby adopt and incorporate herein the Hearing Officer's *Recommended Findings of Fact and Conclusions of Law* for Count I of the *Complaint*.

The Merit Board finds Trooper Whisenand guilty of violating the Department's Rules of Conduct (ROC) as alleged in Count I of the *Complaint*. Specifically, the Merit Board finds by a preponderance of the evidence that Trooper Whisenand violated ROC-002, Paragraph III.A.12 in that she is unable to perform the essential functions of an Illinois State Trooper, and is therefore unable to properly perform her job duties and cannot carry out the functions and objective of the Department in any sworn capacity.

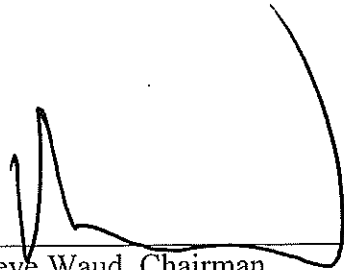
Trooper Whisenand was evaluated for her fitness for duty several different times. Dr. Douglas Craig found Trooper Whisenand unfit for duty on July 29, 2014, and with her fitness restored on October 15, 2014. On April 3, 2015, Dr. Craig was asked to perform an additional fitness test based on new accusations and allegations by Trooper Whisenand. Dr. Craig found Trooper Whisenand unfit for duty again because she was unable to perform the essential functions of her job. Dr. Michael Bricker evaluated Trooper Whisenand's fitness for duty on December 10, 2015. Dr. Bricker found Trooper Whisenand unfit for duty based upon an adjustment disorder.

Based upon these evaluations, the Board finds Trooper Whisenand unfit for duty.

PENALTY

The Board has considered all aggravating and mitigating evidence. The entirety of the evidence presented shows Trooper Whisenand is unable to fully perform the essential functions of an Illinois State Trooper. It is, therefore, the decision of the Merit Board to terminate Trooper Whisenand from employment with the Illinois State Police.

Dated this 26th day of September, 2017.



Reeve Waud, Chairman
State Police Merit Board, State of Illinois

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STATE OF ILLINOIS
ILLINOIS STATE POLICE MERIT BOARD

ILLINOIS STATE POLICE
MERIT BOARD

IN THE MATTER OF:

TROOPER JENNIFER WHISENAND

I. D. #6436



DOCKET NO. 16-01

RECOMMENDED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

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I. BACKGROUND

A. Pleadings

On August 3, 2016, Director Leo Schmitz of the Illinois State Police filed a Complaint with the Illinois State Police Merit Board. The Complaint consists of one count of an alleged violation against Trooper Jennifer Whisenand (hereinafter, "Whisenand"). In the Complaint, Director Schmitz requests that the Illinois State Police Merit Board conduct a hearing in this matter and terminate Whisenand from her employment with the Illinois State Police.

The allegations of the Complaint arise from Trooper Whisenand's actions and statements which resulted in Fitness for Duty evaluations. Two evaluations concluded that Whisenand engaged in unusual behavior, was emotionally fragile, felt persecuted, was paranoid and suffered related deficiencies and could not perform the essential functions of a sworn officer and was unfit for duty. Trooper Whisenand was given the option of 1) requesting a vocational assignment to a civilian (non-sworn) position in the Department or 2) resigning from the Illinois State Police. Whisenand failed to request a vocational assignment or resign from the Department. The Department then filed the Complaint to seek termination.

Count I of the Complaint alleges a violation of Department Directive ROC-002, Paragraph III.A.12. which requires that officers maintain competency to properly perform their duties and assume the responsibilities of their positions. The Complaint alleges Whisenand violated this Rule in that she is unable to perform the essential functions of an Illinois State Trooper.

B. Pre-Hearing Procedures

The Complaint in this case was filed on August 3, 2016. Trooper Whisenand is and has been represented by attorney Guy Studach. Assistant Attorney General Anupama Paruchuri and

Assistant Attorney General Josh Ratz have represented the Director of the Illinois State Police throughout this matter. Attorney Nicholas Kondeles was also present at the Hearing on behalf of the Illinois State Police.

A Motion to Strike Exhibits 2 through 7 of the Complaint was filed by counsel for Trooper Whisenand. By agreement of the parties, that Motion to Strike was granted and the staff of the Illinois State Police Merit Board was directed to remove the exhibits from the Complaint as attached as exhibits to the Motion to Strike. Those exhibits were to be placed in a sealed envelope in the file, not to be opened until further order of the Hearing Officer or the Merit Board. The ruling to remove those exhibits did not in any way prejudice the rights of the parties to offer those exhibits at the Hearing in this matter or otherwise use the exhibits in conjunction with the Hearing preparation in this matter as would normally be done.

Discovery was conducted and both parties exchanged documents and witnesses as provided in the Rules. During the course of discovery, the hearing was continued from time to time by the Hearing Officer by agreement of the parties in order to enable the parties' adequate time to prepare for the hearing.

Ultimately, the hearing was held on January 25, January 26 and January 27, 2017.

C. Hearing

As indicated above, the hearing in this case was held on January 25, January 26 and January 27, 2017. There were several evidentiary Motions which were filed before and during the course of the Hearing. Most of those Motions have all been resolved on the record by the Hearing Officer.

There are two remaining issues which were raised by counsel for the parties during the course of the hearing and with reference to the closing argument briefs which need to be

resolved. First, the Department has made a Motion requesting that the Merit Board apply a presumption that the absence of the DVR should be used as an indication that the tape of the DVR would contain damaging evidence to Trooper Whisenand. The Hearing Officer has specifically considered this Motion and it is hereby denied. Trooper Whisenand testified that she had moved and simply could not find the DVR. The Hearing Officer believes that under these circumstances it would be inappropriate to apply an adverse inference as requested.

The second outstanding issue is with reference to a Motion to Strike filed by counsel for the Respondent with reference to the citation and argument relating to a case in the Department's Rebuttal Brief. This Motion was emailed to the Hearing Officer on May 16, 2017. Specifically, Respondent objects to the Department's reference to the *Jessica Kirincich* case from the Illinois State Police Merit Board. The Respondent argues that this case is being offered as a precedent case but it was never offered or admitted into evidence. Counsel also points out that he had no chance to cross examine any of the witnesses with reference to this particular case.

The Department responded to the Motion by mailing Petitioner's Response on May 24, 2017. The Department contends that the Hearing Officer and the Illinois State Police Merit Board should take judicial notice of this case because it is one of their own cases and points out that the Hearing Officer took judicial notice of a different case during the course of the Hearing.

The Motion to Strike filed by the Respondent is hereby allowed and all references to the *Kirincich* case will not be considered by the Hearing Officer in conjunction with this Recommendation. This case is being offered as precedent. It is not a recitation of the law to be used for legal purposes in the Recommendation. Further, the case was apparently not final when our evidence was closed. And, the Hearing Officer finds that Trooper Whisenand would suffer prejudice because counsel had no opportunity to discuss this case with the witnesses during

examination. Even if it is true that counsel for the Respondent knew of the *Kirincich* case, that is not the issue. The case was not admitted or judicial notice was not taken in this case in a timely manner which would have enabled counsel for the Respondent to address this evidence. So while the Hearing Officer and the Merit Board could take judicial notice of this case, the Motion to Strike the references to the *Kirincich* case is hereby granted and that case will not be considered.

i. Hearing Witnesses

The following witnesses testified at the hearing in this case. The page number of the transcript of the proceedings upon which the testimony of the witness starts is included in parentheses.

January 25, 2017

1. Douglas Craig, PhD (39)
2. Michael Bricker, PhD (166)
3. John Day, PhD (305)

January 26, 2017

4. Colonel Tad Williams (411)
5. Trooper Jennifer Whisenand (439)
6. Sergeant Cory Huff (553)
7. Sergeant Brian Strouss (599)
8. Captain Jon Dively (610)
9. Master Sergeant Rosauro Sanchez (617)
10. Lieutenant Jason Bevard (647)

January 27, 2017

11. Master Sergeant Jacob Tresenriter (689)
12. Julie Buckley (723)
13. Jane Velez, PhD (770)
14. Trooper Jennifer Whisenand (818)

ii. Exhibits

The following exhibits were admitted into evidence in this case:

Petitioner's Exhibits

Petitioner's Exhibit 1	Illinois State Police Directive ROC-002, Rules of Conduct
Petitioner's Exhibit 2	Complaint Against Department Member Form (CADMF) Whisenand dated February 8, 2016
Petitioner's Exhibit 3	Curriculum Vitae of Douglas Craig, PhD
Petitioner's Exhibit 4	Psychological Fitness-For-Duty Evaluation Guidelines as ratified by the IACP Police Psychological Services Section in 2013
Petitioner's Exhibit 6	Curriculum Vitae of Michael E. Bricker, PhD
Petitioner's Exhibit 7	Curriculum Vitae of Jane Hurst Velez, PhD
Petitioner's Exhibit 9	Clinical Evaluation by Michael E. Bricker, PhD dated January 26, 2016
Petitioner's Exhibit 10	Clinical Evaluation by Douglas Craig, PhD dated August 1, 2014
Petitioner's Exhibit 11	Clinical Evaluation by Douglas Craig, PhD dated October 15, 2014
Petitioner's Exhibit 12	Clinical Evaluation by Douglas Craig, PhD dated April 14, 2015
Petitioner's Exhibit 13	Report from Jane Velez, PhD dated August 28, 2015

Petitioner's Exhibit 14	Memorandum by Trooper Jennifer Whisenand to Master Sergeant Rosauo Sanchenz dated June 12, 2014
Petitioner's Exhibit 15	Memorandum by Trooper Jennifer Whisenand to Captain Welsh dated June 25, 2014
Petitioner's Exhibit 16	Email from Trooper Jennifer Whisenand to Master Sergeant Rosauo Sanchez dated July 2, 2014 .
Petitioner's Exhibit 17	Memorandum from Trooper Jennifer Whisenand to Sergeant Jacob Tresenriter dated July 6, 2014
Petitioner's Exhibit 18	Memorandum from Trooper Jennifer Whisenand to Sergeant Jacob Tresenriter dated July 6, 2014
Petitioner's Exhibit 19	Memorandum from Trooper Jennifer Whisenand to Master Sergeant Rosauo Sanchez dated July 11, 2014
Petitioner's Exhibit 20	Memorandum from Trooper Jennifer Whisenand to Master Sergeant Rosauo Sanchez dated July 12, 2014
Petitioner's Exhibit 21	Text Message sent by Trooper Jennifer Whisenand to Dustin Pierce dated March 1, 2015
Petitioner's Exhibit 23	Video Interview of Trooper Jennifer Whisenand conducted by the Normal Police Department on May 15, 2015
Petitioner's Group Exhibit 24	Photographs of Jennifer Whisenand's Apartment
Petitioner's Exhibit 27	Order in ISP Merit Board Case No. 13-04
Petitioner's Exhibit 28	Video of the Interior of Trooper Jennifer Whisenand's Apartment on February 20 and February 21, 2015

Respondent's Exhibits

Respondent's Exhibit 1	Curriculum Vitae of John R. Day, PhD
Respondent's Exhibit 2	Psychological Assessment Report by Luke Dalfiume, PhD dated September 22, 2014
Respondent's Exhibit 3	Letter by Luke Dalfiume, PhD to Carrie Santos dated December 1, 2015
Respondent's Exhibit 4	Psychological Assessment Report by John R. Day, PhD dated November 4, 2016
Respondent's Exhibit 5	Email by Colonel Deborah Simental to Captain Jeffrey Jacobs dated February 10, 2016
Respondent's Exhibit 6	Part II Job Performance Evaluation of Trooper Jennifer Whisenand dated February 24, 2014
Respondent's Exhibit 7	Part III Promotional Skills Evaluation of Trooper Jennifer Whisenand dated May 8, 2014
Respondent's Exhibit 8	Part II Job Performance Evaluation of Trooper Jennifer Whisenand dated February 24, 2015
Respondent's Exhibit 9	Trooper Jennifer Whisenand's Basic Life Support Instructor License Issued March 2014 – Expires March 2016
Respondent's Exhibit 10	Illinois State Police Official Action Letter to Trooper Jennifer Whisenand dated July 15, 2014 regarding Administrative Leave with Pay
Respondent's Exhibit 11	Illinois State Police Official Action Letter to Trooper Jennifer Whisenand dated July 22, 2014 regarding Evaluation for Fitness for Duty
Respondent's Exhibit 12	Letter from Colonel Marc R. Maton to Trooper Jennifer Whisenand dated August 19, 2014 regarding Approved Leave of Absence and Non-Service Connected Disability Benefits
Respondent's Exhibit 13	Letter from Illinois State Police to Trooper Jennifer Whisenand dated October 8, 2014 regarding Administrative Leave with Pay

Respondent's Exhibit 14	Illinois State Police Official Action Letter to Trooper Jennifer Whisenand dated October 14, 2014 regarding Unfit for Duty
Respondent's Exhibit 15	Illinois State Police Official Action Letter to Trooper Jennifer Whisenand dated October 17, 2014 regarding Return to Full-Duty Status
Respondent's Group Exhibit 16	Photographs from the Peoria Police Department taken from Trooper Jennifer Whisenand's Camera in her Apartment dated February 27 and February 28, 2015
Respondent's Group Exhibit 17	Photographs from the Peoria Police Department taken from Trooper Jennifer Whisenand's Video Camera in her Apartment dated March 7 and March 8, 2015
Respondent's Exhibit 18	Illinois State Police Official Action Letter to Trooper Jennifer Whisenand dated March 3, 2015 regarding Administrative Leave With Pay
Respondent's Exhibit 19	Letter from Colonel Michael Zerbonia to Trooper Jennifer Whisenand dated March 30, 2015 regarding Evaluation for Fitness for Duty
Respondent's Exhibit 20	Letter from Colonel Kelly Walter to Trooper Jennifer Whisenand dated April 17, 2015 regarding Approved Leave of Absence and Non-Service Connected Disability Benefits
Respondent's Exhibit 21	Letter from Illinois State Police to Trooper Jennifer Whisenand dated September 16, 2015 regarding Administrative Leave with Pay
Respondent's Exhibit 22	Letter from Colonel Kelly Walter to Trooper Jennifer Whisenand dated December 4, 2015 regarding Evaluation with Michael Bricker, PhD
Respondent's Exhibit 23	Letter from Colonel Kelly Walter to Trooper Jennifer Whisenand dated December 11, 2015 regarding Additional Treatment Sources
Respondent's Exhibit 24	Letter from Colonel Kelly Walter to Trooper Jennifer Whisenand dated February 10, 2016 regarding Unfit for Duty

II. SUMMARY OF EVIDENCE

The following is a brief review of the evidence submitted in this case as determined by the Hearing Officer. This review does not include a recitation of all of the evidence presented in the case and is not intended to be an all-inclusive summary of the evidence. Instead, it is intended to serve as a guide for the basis and understanding of the recommended findings and conclusions of law of the Hearing Officer. The Hearing Officer has specifically considered all of the testimony and exhibits introduced in this case and the arguments, both written and oral, of the attorneys on behalf of the parties. The fact that many of the specifics of the testimony, documents and arguments are not included in this summary should not be interpreted to mean that it has not been fully considered by the Hearing Officer.

WITNESSES

TROOPER JENNIFER WHISENAND (Called in the Department's Case (Pgs. 439 - 547) and Called in the Respondent's Case (Pgs. 817 - 1010))

Trooper Jennifer Whisenand is the Respondent in this case. She testified both in the Department's case and in the Respondent's case. Her testimony was convoluted and often confusing but the overall gist of her testimony is clear that there were many strange incidents at several places where she was residing. She basically blames these incidents on her brother-in-law and a group associated with him, or on her former husband, or on others. She believes that she cannot trust investigators and others because of their relationship to her ex-husband and/or to her former brother-in-law, a Deputy Sheriff in Peoria County.

Trooper Jennifer Whisenand has been employed by the Illinois State Police since 2013. She originally worked for District 7 in 2013 and 2014 and then she transferred to District 8 in 2014 and 2015 when the events involved in this case took place. She transferred for personal family reasons unrelated to her job. She was never disciplined or counseled prior to the initiation of these proceedings and she considered herself an active trooper.

The incidents which she cites included her brother-in-law growing marijuana on the Buckley property where she was staying with her sister, brother-in-law and their family. In conjunction with the marijuana, she also saw men dressed in black on the property at dusk and heard the sound of them picking plants, presumably the marijuana. She also testified that she saw these men communicating with each other by making coyote or squirrel calls. On one occasion, she also smelled marijuana in the Buckley house.

Another incident involved people messing with her squad car and removing her gas cap. She also believes there was a person at her grandmother's house in the middle of the night and that shots were fired in the area of her grandmother's house. She believes her uniform was moved from its normal location to the barn where she found it. She also believes that her clothing was taken and when it was returned it was heavier and included some sort of material, like it had been magnetized.

She also testified that there was a suspicious car in her aunt's driveway and that one of her former husband's relatives had been seen driving down the road past where she was staying, which was a dead end.

She believed that her former husband had made threats to her son about intruders going to be coming into the house where they were staying. She also testified that the door lock to one of her residences moved to the unlocked position for no apparent reason. She reported that there

were knocking and tapping noises on the doors and windows where she was staying. She indicated that her keys had gone missing, that there were projections of light into where she was staying, and that somebody had been messing with and drilled holes into her collection of Precious Moments figurines.

She also testified that there had been intruders in her home during the night when she and her sister and children were present. At one point, Trooper Whisenand indicated that she had chased two intruders from her bedroom but they had inexplicably disappeared in the house, apparently not going out the only exit available to them. She also testified on another instance where her son indicated to her that he had seen her being sexually assaulted after she had been made to pass out. The incident which her son described is similar to an incident described by her niece as happened to Whisenand's sister, which was determined to be unfounded.

During the course of these events, Trooper Whisenand and her sister installed trail cameras in the woods where they had seen the men dressed in black apparently harvesting marijuana. However, the trail cameras failed to pick up any activity in the area. Trooper Whisenand testified that she believed that the SIM cards on the trail cameras were being replaced in order for the men to avoid detection on the cameras. Similarly, Trooper Whisenand installed a home camera system with six or so cameras in her house. The camera system apparently never worked properly or for whatever reason there was no video available. There were some photographs taken from alerts from the camera system but those photographs were inconclusive and did not clearly represent the descriptions given by Trooper Whisenand and, in fact, did not show the break-ins about which Trooper Whisenand testified. Trooper Whisenand testified that she was suspicious as to whether or not the police had lost the videos.

At these circumstances developed, the Department referred Trooper Whisenand for several Fitness For Duty evaluations. These evaluations will be described below with reference to the testimony of the therapists involved. Ultimately, Trooper Whisenand was found unfit for duty by two licensed clinical psychologists. She was offered the opportunity to request a vocational assignment to a non-sworn position with the Department or to resign from the Illinois State Police. Trooper Whisenand was told that if she did not choose one of the two options, the Department would initiate proceedings to terminate her employment and that is, in fact, what happened. Trooper Whisenand is currently employed by Advance Medical Transport.

DOUGLAS CRAIG, PhD
(Called in the Department's Case (pgs. 39 – 165))

Dr. Douglas Craig is a licensed clinical psychologist with extensive experience in providing Fitness For Duty evaluations for law enforcement, having performed about 4000 such evaluations. Dr. Craig is often hired by the Illinois State Police to undertake such evaluations.

Dr. Craig defined fitness for duty as being able to complete the essential elements of the job functions of the individual without any compromise of those elements. Dr. Craig also emphasized that any medical diagnosis was secondary to the question of whether the officer was fit for duty. The fitness for duty issue is whether the individual can perform the essential elements of the job.

On July 29, 2014, after reviewing the documents provided by the Illinois State Police, conducting psychological tests on Trooper Whisenand, and an interview with Trooper Whisenand, Dr. Craig found that Trooper Whisenand was holding things in, was rigid and inflexible which was affecting her emotions, was deceptive in an effort to minimize her shortcomings, failed to fully appreciate the psychological impact of the incidents which she described on her, and was emotionally fragile. He indicated that her decision making and lack of

insight into the effect of the incidents on her was concerning. Dr. Craig found that under her current condition, she needed to talk to a professional health provider and indicated that she was not fit for duty.

Dr. Craig re-evaluated Trooper Whisenand on October 15, 2014, where he found that she was experiencing the same stressors but that she was coping better at this time. He found her now to be emotionally stable and fit for duty. Trooper Whisenand returned to work.

However, on April 3, 2015, Dr. Craig was asked to perform a second, full evaluation on Trooper Whisenand based upon the new accusations and allegations by Trooper Whisenand. Dr. Craig noted that Trooper Whisenand now agreed that the incidents which she was describing were bizarre but that she believed them to be true. Dr. Craig also noted that there were feelings of persecution and that Trooper Whisenand had basically reverted to the condition when he first saw her. He also found that she was potentially violent.

Under these circumstances, Dr. Craig found Trooper Whisenand unfit and again recommended therapy. He diagnosed an adjustment disorder, unspecified, which relates to the inability of Trooper Whisenand to adjust to life's stresses. He recommended that she go back to therapy but Dr. Craig was not sure if more therapy would help. Dr. Craig indicated that most people, under these circumstances, are able to readjust. However, there are instances where no readjustment is possible and Dr. Craig was unsure, based upon her history, whether or not Trooper Whisenand was chronically unfit.

JANE VELEZ, PhD
(Called in the Department's Case (Pgs. 770 - 816))

Jane Velez is a licensed clinical psychologist. She was contacted to meet with Trooper Whisenand pursuant to the Department's Employee Assistance Program. This was not a Fitness For Duty evaluation. Dr. Velez saw Trooper Whisenand approximately ten times from April to

July of 2015. Trooper Whisenand explained to Dr. Velez many of the incidents which are described above. Dr. Velez's examination included questions regarding paranoia and possible delusions.

Dr. Velez indicated that Trooper Whisenand was initially rational and acknowledged that the incidents that she was describing were unusual. However, as her conversations progressed, Dr. Velez believed that Trooper Whisenand became more delusional. Dr. Velez was indicating that the stories were not making sense and asked Trooper Whisenand to ask her sister, Julie, and Trooper Whisenand's own children to attend to provide the bigger picture as to exactly what had happened. Trooper Whisenand did not do this and she stopped seeing Dr. Velez. At that time, Dr. Velez did not want to release her and had diagnosed a delusional disorder of the persecutory type and found that no progress was being made. Dr. Velez noted that Trooper Whisenand still believed that all of the incidents that she was describing had actually happened.

MICHAEL BRICKER, PhD
(Called in the Department's Case (Pgs. 166 – 304))

Michael Bricker is a licensed clinical psychologist. He has performed approximately 500 Fitness For Duty evaluations and was asked to perform an evaluation on Trooper Whisenand. Dr. Bricker saw Trooper Whisenand on December 10, 2015.

At the time of the meeting, Trooper Whisenand told Dr. Bricker that everyone was against her. He found her description of the events and the surrounding circumstances demonstrated a lack of or very little insight on Whisenand's part as to the events she was describing and the impact that her beliefs of these events was having on her. He also indicated that she was feeling persecuted and believed that others were out to get her.

Trooper Whisenand had admitted to Dr. Bricker that the stories were hard to believe. Dr. Bricker emphasized that the events were outlandish but the real question was her reaction to her

belief of these incidents. Dr. Bricker found that there was a lack of insight and awareness as to the impact of these events on Trooper Whisenand's judgment and decision making. As an example of the lack of awareness, Dr. Bricker noted that Trooper Whisenand continued to live in her residence instead of moving to a safe location notwithstanding the description of the intruder and sexual assault incidents which she had made.

Dr. Bricker also drew a distinction between the truth of the description of the incidents involved and the Fitness For Duty evaluation. Dr. Bricker indicated that many of the incidents could not be proved or disproved but that that did not matter. What mattered was Trooper Whisenand's condition and fitness for duty.

Ultimately, Dr. Bricker determined that Trooper Whisenand was unfit for duty based upon an adjustment disorder. He was unsure as to whether therapy would help under the circumstances but did acknowledge that the adjustment disorder can remit if the stressors are eliminated.

JOHN R. DAY, PhD
(Called in the Respondent's Case (Called Out of Order) (Pgs. 305 - 406))

John R. Day is a licensed clinical psychologist. Dr. Day was presented as an expert on behalf of the Respondent. Dr. Day testified that he has had sparse training with reference to Fitness For Duty evaluations. He indicated that he had done approximately two dozen fitness evaluations in his forty-six years as a licensed clinical psychologist. Dr. Day testified that he did not review the job description for Trooper Whisenand but indicated that he did look at the other Fitness For Duty evaluations. In the end, Dr. Day found that Trooper Whisenand did not suffer from any significant psychopathology that would render her incapable of performing her job. He found that she was fit for duty although he did recommend ongoing counseling.

It is also significant to note that Dr. Day indicated that Trooper Whisenand did not believe that all of the events which she was describing had actually occurred. However, Trooper Whisenand's testimony at the Hearing and in the interviews and other evaluations is that she did, in fact, believe that the events occurred. Her testimony at the Hearing was that she believed that the events actually occurred. This is a significant discrepancy with reference to Dr. Day's evaluation and the facts presented in the case.

COLONEL TAD WILLIAMS
(Called in the Department's Case (Pgs. 411 - 439))

Tad Williams is a Colonel with the Division of Operations for the Illinois State Police. He filed the Complaint Against Department Member Form (CADMF). He was a member of the Medical Review Board and believed that Trooper Whisenand was unfit for duty and likely not to recover. Trooper Whisenand was offered the option of a reasonable accommodation or a resignation before the Complaint was filed to seek her termination. She did not respond to the offer and, as indicated in the offer, the termination proceedings started.

Colonel Williams specifically referred to Dr. Bricker's findings that Trooper Whisenand was unfit and should not have a gun. Colonel Williams believed that the fact that she could not have a gun and that her cognitive thinking was impaired and that she was espousing wild allegations were a clear indication that she could not perform the duties of a trooper.

On cross-examination, Colonel Williams acknowledged that pursuant to the Disciplinary Matrix of the Department, the competency rule allegedly violated in this case is a Level I offense which is subject to punishment by a reprimand or up to three-day suspension. It was also pointed out that the CADMF normally goes to the Division of Internal Investigation with a request to initiate an investigation. No investigation was initiated here. The Department relied upon Whisenand's reports and the evaluations by the doctors.

Cross-examination also pointed out that Trooper Whisenand had a twin sister and it was that sister that may have made the comment about unloading a clip. Colonel Williams was unaware of this fact.

Colonel Williams also acknowledged that the Disciplinary Review Board did not consider her prior performance evaluations. Instead, the Disciplinary Review Board focused upon the incidents as alleged above and the reports of the doctors. It was noted that Dr. Day was contacted in conjunction with this case and that his report came after the Medical Review Board decision had been made. Colonel Williams also indicated that the Disciplinary Matrix determination that a violation of the competency rule is when a trooper could not do something specific. In this case, he believed that it was different and she could just not do the job requirements due to her overall condition.

SERGEANT CORY HUFF
(Called in the Department's Case (Pgs. 553 - 599))

Cory Huff is a Sergeant with the Peoria Police Department. Sergeant Huff interviewed Trooper Whisenand about her complaint to the building manager of a break-in by intruders. The building manager had called the police. Trooper Whisenand had not made any reports or complaints to the police. Trooper Whisenand described the events of the break-in and some additional events such as the door lock turning on its own and the knocking or tapping on the doors and windows. She also explained to Sergeant Huff about the installation of the indoor surveillance system, her clothing being stolen, and the "magnets" in her clothing. She never filed any police reports about these incidents.

She also told Sergeant Huff about her Precious Moments figurines being disturbed and feeling heavier but Sergeant Huff thought they looked normal. She also told him about the projecting of images into her apartment.

Sergeant Huff wanted to retrieve the DVR so that he could examine the tape. She finally got the DVR back and he went and copied the file footage from the day of the break-in. She showed him some photographs of people in her apartment which she claimed were not supposed to be there. Sergeant Huff did not believe that the photographs showed anything clearly abnormal. It was determined that there was nothing on the DVR for the dates of the break-in indicated by Trooper Whisenand.

Sergeant Huff also checked with four other residents in the apartment building which were available and none of them reported any break-ins.

In the end, Sergeant Huff closed his case. He did not believe that Trooper Whisenand was specifically lying but he did indicate that she was simply not credible with reference to her testimony.

SERGEANT BRIAN STROUSS
(Called in the Respondent's Case (Pgs. 599 - 610))

Brian Strouss is a Sergeant with the Illinois State Police. He was Trooper Whisenand's supervisor when she worked in District 7. He indicated that he had no issue with her work and that Trooper Whisenand was very active. Sergeant Strouss identified Trooper Whisenand's performance evaluation signed in February of 2014 and indicated that there were no deficiencies. Sergeant Strouss' evaluations were for work done by Trooper Whisenand in District 7.

CAPTAIN JON DIVELY
(Called in the Respondent's Case (Pgs. 610 - 617))

Jon Dively is a Captain with the Illinois State Police of District 14 and District 20. In May of 2014, he was the acting Lieutenant and Operations Officer in District 7. He knew Trooper Whisenand when she was working in District 7.

Captain Dively identified the promotional skills evaluation signed in May of 2014 indicating that Trooper Whisenand was a good trooper and was very active with truck enforcement.

MASTER SERGEANT ROSAURO SANCHEZ
(Called in the Department's Case (Pgs. 617 - 647))

Rosauro Sanchez is a Master Sergeant with the Illinois State Police. He was Trooper Whisenand's supervisor in District 8. He became involved this matter when she requested a meeting with Sergeant Bowers to report information about the criminal activity involving growing marijuana. Master Sergeant Sanchez indicated that Trooper Whisenand specifically discussed the people in the field at night picking marijuana and about their using animal calls as signals. Master Sergeant Sanchez believed that these events had happened to her.

He later talked to Trooper Whisenand on July 11th when she indicated to him that her uniform had been missing and that she had found it in the barn. She also indicated to him that her kids clothing had been stolen, and that there had been magnets put in clothing and then returned. At this point, Master Sergeant indicated he believed that Trooper Whisenand believed that the magnets were true but that he did not believe it was true.

On cross-examination, Master Sergeant Sanchez indicated that Trooper Whisenand was a good trooper and was active in traffic and handling calls. There was nothing negative with reference to her performance. He believed that Trooper Whisenand had done the right thing to involve him and Sergeant Bowers with reference to the allegations she was making.

LIEUTENANT JASON BEVARD
(Called in the Department's Case (Pgs. 647 - 683))

Jason Bevard is a Lieutenant with the Illinois State Police in District 8. He conducted one evaluation of Trooper Whisenand and it went well. He was also involved in the

investigation when Master Sergeant Sanchez and Sergeant Bowers relayed Trooper Whisenand's allegations to him. He also met with Trooper Whisenand on a general welfare inquiry about her and the kids. She reiterated the allegations about the break-ins to him but he indicated that they were never substantiated and questioned why she still felt safe there and did not need help. He understood that Trooper Whisenand believed what she was relaying but Lieutenant Bevard did not believe it. Lieutenant Bevard was concerned about her distinguishing reality from fantasy. He also indicated that the troopers had been sent to the house to investigate her marijuana calls and that they had been unable to substantiate them.

MASTER SERGEANT JACOB TRESENITTER
(Called in the Department's Case (Pgs. 689 - 722))

Jacob Tresenriter is a Master Sergeant in District 8 for the Illinois State Police. He was a supervisor for Trooper Whisenand. Master Sergeant Tresenriter testified about Trooper Whisenand's allegations of the break-in. Master Sergeant Tresenriter testified that notwithstanding the photographs which he was shown and the description by Trooper Whisenand, he had doubt as to what really happened. He noted that the security system which had been installed was not working correctly and he also said that Trooper Whisenand said that she and her family were safe notwithstanding the allegations which she was relating.

Master Sergeant Tresenriter went to the apartment and did not find any signs of a break-in or other indications of intruders, such as tracks in the snow. He noted that her dog had not reacted to an intruder.

On cross-examination, Master Sergeant Tresenriter acknowledged that Trooper Whisenand denied that she had said that she was going to "empty a clip". He acknowledged that Julie Buckley is a twin sister to Trooper Whisenand and that it is hard to tell them apart.

In the end, Master Sergeant Tresenriter did not believe that there was a break-in. There was no evidence to support it, the dog did not alert, the exit door was locked and the people sleeping in the area were not disturbed, and Trooper Whisenand did not see the individuals exit.

JULIE BUCKLEY

(Called in the Respondent's Case (Called Out of Order) (Pgs. 723 - 769))

Julie Buckley is the identical twin sister of Trooper Whisenand. She was recently divorced from Jason Buckley, although she had left him in 2014. Jason Buckley is a Lieutenant for the Peoria County Sheriff's Department. Julie confirmed that Jason had been growing marijuana on their property in 2014 and that her daughter had reported it to her. She confirmed the incident described by Trooper Whisenand in the woods where they saw several men, all dressed in black, making animal sounds. After that night, she checked and saw marijuana growing on the property in a wood pile and claims she called the FBI four times but got no response.

Julie Buckley indicated that her daughter told her that she had seen Julie being sexually assaulted but Julie did not recall it. This assault was similar to an assault reported by Trooper Whisenand's son on Trooper Whisenand. Julie indicated that it was her that had said that she would "empty a clip" in conjunction with a conversation with one of her friends. Julie also indicated that it was her that was talking about "wiccans", not Trooper Whisenand.

On cross-examination, Julie Buckley indicated that she did not call 911 with reference to the marijuana, but instead told her husband. She also acknowledged that she reported the assault which her daughter described to the hospital and that the officers came to the hospital and the cases involving her and her daughter were found to be unfounded.

Julie Buckley did confirm the statements by Trooper Whisenand of unusual occurrences while living at her grandmother's house, specifically with reference to her uniform being moved

and finding tax papers in the ditch. She also confirmed that Trooper Whisenand's son Chandler had reported that he had witnessed the sexual assault on Trooper Whisenand and did not want to stay at her house. That is when Trooper Whisenand and Julie Buckley took the kids and went to the Normal Police Department because they had a friend whose husband worked there. This same trip was reported by Trooper Whisenand and the interviews were seen on videotape.

III. GENERAL FINDINGS OF FACT

It is undisputed that Trooper Whisenand was a good trooper. Her supervisors from District 7 and District 8 that testified in this case indicated that she was a good trooper, was very active, and had no negative actions in her file. It is also undisputed that the Disciplinary Review Board did not believe that the question of competency presented by the allegations of this case related directly to Trooper Whisenand's past performance. Instead, the Disciplinary Review Board believed that the question of competency revolved around Trooper Whisenand's condition and ability to perform the essential elements of her position.

It is clear to any objective observer that Trooper Whisenand's allegations included bizarre events and allegations. These allegations include the fact that her son reported to Trooper Whisenand that the Trooper had been sexually assaulted while she was passed out. Trooper Whisenand did not recall the sexual assault. Significantly, the sexual assault described by Trooper Whisenand's son was very similar to a similar description of Whisenand's sister being raped as described by that sister's daughter. The allegations in that incident were investigated and determined to be unfounded. The Hearing Officer specifically finds that the sexual assault did not take place.

Trooper Whisenand's reporting also includes break-ins in her residence. The break-ins are not conclusively established by a security system camera which had been installed by

Trooper Whisenand for this purpose. Further, Trooper Whisenand herself admits that in one instance she chased the intruders out of her bedroom but that she could not determine how they left the house because the only exit door remained locked and undisturbed. During these break-ins, the other individuals in the house and the family dog did not react to any intruders.

There was also a great deal of testimony about the fact that Trooper Whisenand's brother-in-law, Jason Buckley, a Lieutenant in the Peoria County Sheriff's office, was growing marijuana on the Buckley home property. Only Trooper Whisenand and her sister testified about the marijuana. The only photograph which was shown was a photograph of marijuana but was not identifiable as having been on the Buckley property. It would have been easy enough for Trooper Whisenand or her sister to clearly demonstrate that there was marijuana growing on the property by taking a photograph of the apparently wide-spread plants on the property itself. This was not done.

Trooper Whisenand testified that she and her sister saw men dressed in black on the property and they were apparently harvesting marijuana. They did not call the police originally but, instead, installed trail cameras in an effort to videotape the criminal activity. However, the trail cameras failed to capture any such activity. Trooper Whisenand explained this away as indicating that the perpetrators must have replaced the SIM cards in the trail cameras whenever they were there. The Hearing Officer specifically finds that there is insufficient evidence to determine that the marijuana was, in fact, growing on the Buckley property as described by Trooper Whisenand. It is incredible that the police were not originally called when the marijuana was discovered and it is equally incredible that the men dressed in black cultivating and harvesting the marijuana replaced the SIM cards on the trail cameras to avoid detection of their criminal activity.

Similarly, Trooper Whisenand included many other bizarre allegations. She alleged that her clothing and that of her family had been moved and specifically that her uniform had been taken to the barn. Some clothing was missing and other clothing had turned up after it had been missing but was found to have magnetic properties when it was returned. The Hearing Officer finds that these events, too, have not been proven to have happened.

The Hearing Officer does specifically note that two of the allegations with reference to Trooper Whisenand regarding bizarre actions did not occur. The Department alleged that Trooper Whisenand referred to "wiccans" and that Trooper Whisenand also indicated that at one point that she would "empty her clip" into an individual. The Hearing Officer finds that these statements may well have been made by Julie Buckley, Trooper Whisenand's identical twin sister. Therefore, the Department has not established that Trooper Whisenand was responsible as alleged in the Complaint with reference to these comments.

Trooper Whisenand also reported that a suspicious car had been seen at the end of her aunt's driveway in the same neighborhood as she was living, that her husband's relatives had been driving down the road by where she was staying, that knocking and tapping noises occurred on the walls and windows where she was staying which she described as harassment rather than mere noises. Trooper Whisenand also indicated that at one point her keys had gone missing, that the gas cap on her squad car had been loosened and that her car had been messed with, that shots had been fired in the area where she was staying and that there had been projections into her apartment. Trooper Whisenand testified as to her own personal knowledge as to some of these incidents and that other incidents, such as the projections, had been related to other individuals. However, there was no corroborating evidence from other witnesses with reference to these incidents. The Hearing Officer specifically finds that the incidents described by Trooper

Whisenand did not occur as described by Trooper Whisenand. Specific facts may have taken place innocently, such as misplaced keys, but there was not an overall sinister program as she described. However, the Hearing Officer also finds that Trooper Whisenand did, in fact, believe that the incidents had occurred as she described. In other words, Trooper Whisenand was delusional in accepting the fact that these events had occurred when, in fact, they had not taken place as an overall scheme to harass her.

The fact that the events did not take place, although Trooper Whisenand believes that they did, is not the conclusive inquiry in this case. Instead, the critical evidence is the testimony of the licensed clinical psychologists who examined Trooper Whisenand to determine if she was fit for duty. In this regard, the Hearing Officer specifically accepts and finds credible the testimony of Dr. Douglas Craig and Dr. Michael Bricker. Both Dr. Craig and Dr. Bricker were very credentialed and experienced in law enforcement fitness for duty evaluations. They specifically identified the methodology and information used for these evaluations. Both of these doctors specifically determined that Trooper Whisenand suffers from an adjustment disorder, unspecified. In lay terms, this means that there is something going on with reference to Trooper Whisenand that warrants further psychological investigation.

However, the fitness for duty question does not rely upon or require a specific medical or psychological diagnosis. Instead, it relies upon whether or not Trooper Whisenand can perform the essential elements of her position. In this case, Dr. Craig and Dr. Bricker found that Trooper Whisenand was potentially violent, was rigid and inflexible in reaction to the stressors in her life and that she suffered from feelings of persecution and paranoia. The doctors believed that Trooper Whisenand did not have insight into the effect that the events were having on her condition and that her judgment was impaired. One example of such impaired judgment was the

fact that Trooper Whisenand was not concerned for the safety of her family and did not move after the break-ins that she described. In the end, both Dr. Craig and Dr. Bricker found that Trooper Whisenand was not fit for duty. In fact, they questioned whether further counseling would help under her circumstances or whether she was chronically unfit. Both doctors found that the incidents described were bizarre but that Trooper Whisenand believed that they had happened.

The findings of Dr. Craig and Dr. Bricker were also supported by Trooper Whisenand's therapy with Dr. Jane Velez through the Department's Employee Assistance Program. Dr. Velez found that Trooper Whisenand was delusional and did not cooperate in the doctor's efforts to bring in her sister, Julie Buckley, or Trooper Whisenand's children, as was requested to help sort out the fact of these events. Dr. Velez diagnosed delusional disorders of the persecutory type and further indicated that no progress was being made by treatment of over ten visits. Dr. Velez indicated that Trooper Whisenand did, in fact, believe that the incidents which she was describing had occurred.

Trooper Whisenand's contention that she is, in fact, fit for duty was supported by the testimony of Dr. John Day. Dr. Day is also a licensed clinical psychologist but by his own admission, he has limited experience or training with fitness for duty evaluations. He has performed only approximately twenty-four such evaluations in his forty-six years of practice. He did not describe any specific methodology to be used for law enforcement fitness for duty evaluations and admitted that he did not review the job description for Trooper Whisenand. Dr. Day agreed that Trooper Whisenand had psychological issues, some of the same issues cited by Dr. Craig and Dr. Bricker. However, Dr. Day indicated that there was no psychopathology that would render Trooper Whisenand incapable of performing her job.

Dr. Day apparently took comfort from the fact that Trooper Whisenand did not believe the events which she was describing had actually occurred. However, throughout Trooper Whisenand's discussions with the other psychologists and even at the Hearing in this case, Trooper Whisenand acknowledged that she believed that the events had occurred as she described.

As indicated above, the Hearing Officer finds that the testimony of Dr. Craig and Dr. Bricker is much more persuasive than the testimony of Dr. Day. And, as acknowledged by Dr. Craig and Dr. Bricker, even if all of the events described by Trooper Whisenand had occurred as she believes, this still does not answer the question as to why she is so rigid and inflexible, and feels persecuted and paranoid. It also does not explain why Trooper Whisenand lacks insight into the significance of these actions on her daily activities.

The Hearing Officer has also considered counsel for the Respondent's contention that Dr. Day's evaluation should be given more credibility than the other doctors because it is more recent. While the Hearing Officer accepts the general proposition that more recent reviews are preferable, the evidence in this case is overwhelming as to the Respondent's condition. Even at the Hearing, Trooper Whisenand testified that all of the bizarre events had happened, which is directly contrary to Dr. Day's assertion that she no longer believed they were true. Further, the Hearing Officer specifically points out that the opinions of Dr. Craig were that Trooper Whisenand was unfit for duty on July 29, 2014, fit for duty on October 15, 2014 and unfit for duty on April 3, 2015. Dr. Bricker found that Trooper Whisenand was unfit for duty on December 10, 2015. The Department cannot be expected to continue and risk the yo-yo fitness of any trooper. Under these circumstances, for the reasons stated above, the Hearing Officer

finds the earlier reports and findings that Trooper Whisenand was unfit are more accurate and persuasive than the more recent evaluation of Dr. Day.

The testimony of the other witnesses in this case establishes that Trooper Whisenand was a good trooper based upon her performance before these incidents arose. They also relate to the reports made by Trooper Whisenand of these bizarre events and activities and how the bottom line is that the allegations of Trooper Whisenand could not be substantiated.

IV. SPECIFIC FINDINGS OF FACT

Count I of the Complaint against Trooper Whisenand alleges that she violated Rule 12 of the Rules of Conduct. Rule 12 states as follows:

Officers will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Officers will perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the officer's rank, grade or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; the failure to successfully complete mandatory annual training requirements; or absence without leave. An isolated incident can be evidence of incompetency and/or unsatisfactory performance. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations, directives or orders of the Department.

Count I is the sole Count of the Complaint against Trooper Whisenand. It is alleged that the totality of the Trooper's activities and reports demonstrate that she can no longer perform the essential elements of her position and that she is unfit for duty. As indicated in the General Findings of Fact, the Hearing Officer specifically finds that the testimony of Dr. Craig and Dr. Bricker accurately assess Trooper Whisenand's condition. The Hearing Officer specifically finds that the events as described by Trooper Whisenand did not take place. But, independent of that determination, the Hearing Officer further specifically finds that the condition and reactions

of Trooper Whisenand as described above demonstrate that she can no longer perform all of the essential elements of her position. Trooper Whisenand cannot be trusted to react in a rational manner to the stressors which she is facing in her life and specifically in her work as a state trooper. The feelings of persecution and paranoia which she is feeling and the fact that she is not appreciating the effect of these feelings on her condition render her incapable of performing the responsibilities of her position. Thus, the Hearing Officer specifically finds that Trooper Whisenand is unfit for duty.

V. CONCLUSIONS OF LAW

1. The Illinois State Police Merit Board has jurisdiction over the parties hereto and the subject matter of this case.
2. This matter is decided exclusively on the evidence admitted at the hearing held in this case.
3. The burden of proof in this case rests upon the Illinois State Police. The Illinois State Police are required to prove the allegations of the Complaint by a preponderance of the evidence (80 Ill. Adm. Code Ch. IV Secs. 150.665(f), 150.680(a)). By requiring proof of a matter by preponderance of the evidence, the Illinois State Police are required to prove that the matters asserted are more probably true than not true (Illinois Pattern Jury Instructions, Civil, 21.01).
4. With reference to Count I of the Complaint, in accordance with the findings and determinations of the Hearing Officer above, the Hearing Officer concludes that the Department has proven a violation of Rule 12 of the Rules of Conduct (Department Directive ROC-002, Rules of Conduct, Paragraph III.A.12). The Department has proven by a preponderance of the evidence that Trooper Whisenand cannot maintain sufficient competency to properly perform her

duties and assume the responsibilities of her position. Respondent is unable to perform the essential elements of the position of an Illinois state trooper.

VI. PENALTY CONSIDERATION

The Department is seeking termination of Trooper Whisenand from employment with the Illinois State Police.

The Hearing Officer fully realizes and appreciates that the imposition of any appropriate penalty in this case following a finding of a violation for the charge, if any, is within the exclusive prerogative of the Illinois State Police Merit Board. Thus, no recommendation is made with reference to the appropriate penalty to be imposed in the event the Board finds a violation with reference to the charge. However, in an effort to facilitate the Board's consideration of the evidence with reference to any penalty to be imposed, the Hearing Officer submits the following summary for the Board's attention with reference to these issues. This evidence highlights the penalty evidence and arguments but is not intended to be all inclusive.

Counsel for the Respondent emphasizes the fact that Trooper Whisenand was a good trooper in both District 7 and District 8 before these events arose. All of her supervisors that testified generally indicated that she was a good trooper, that she had received good evaluations and that she had been active in her role as a road trooper. These included Master Sergeant Sanchez, Lieutenant Bevard, Master Sergeant Tresenriter, Sergeant Strouss and Captain Dively.

The Disciplinary Review Board did not consider Trooper Whisenand's past work record and the Department has not contested her characterization as a good trooper in these proceedings. Instead, Colonel Williams testified that in evaluating the fitness for duty, the Medical Review Board and the Disciplinary Review Board focused on her condition and actions involved with the incidents as alleged in the Complaint. As indicated above, the Department

focuses on the fitness for duty evaluations of Dr. Craig and Dr. Bricker in its determination that Trooper Whisenand is unfit for duty and cannot perform the essential elements of her position.

Counsel for the Respondent has also pointed out that the Disciplinary Matrix instituted by the Department indicates the offense for a violation of Rule 12 as alleged in this Complaint is a Level 1 violation punishable by a reprimand or a suspension of up to three days. Colonel Williams has indicated that the Rule is specifically written and designed for limited failings on specific issues by a trooper. This situation is different because the Department has considered the overall condition, activities and abilities of Trooper Whisenand. It is for this reason that the Department believes that discharge is in order.

Counsel for the Department also points out that Trooper Whisenand was offered alternative employment in a non-sworn position and was offered the opportunity to resign but failed to choose one of those alternatives so there was nothing left for the Department to do but to proceed with termination before the Board.

The Department basically contends that it has no alternative but to terminate Trooper Whisenand because of her inability to carry out her duties as a trooper. This is for all of the reasons stated above with reference to her condition, her judgment, her insight and awareness of the impact of these incidents, and the stress of her personal life affecting her decisions. Counsel for Trooper Whisenand, on the other hand, argues that termination is an excessive penalty in this case, particularly considering Dr. Day's more recent evaluation and determination that Trooper Whisenand is fit for duty.

Respectfully submitted in Springfield, Illinois this 14th day of July, 2017.



R. Mark Mifflin, Hearing Officer
Illinois State Police Merit Board

R. Mark Mifflin, Reg. No. 01906399
Giffin, Winning, Cohen & Bodewes, P.C.
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CERTIFICATE OF SERVICE

Service of the foregoing document was made by hand delivering the original document, in a sealed envelope to:

Illinois State Police Merit Board
531 Sangamon Avenue East
Springfield, IL 62702

and by electronic transmission (email) to:

Guy Studach
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Anupama Paruchuri
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RECEIVED

JUL 14 2017

**ILLINOIS STATE POLICE
MERIT BOARD**

on this 14th day of July, 2017.



R. Mark Mifflin, Reg. No. 01906399
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RECEIVED

AUG 03 2016

**ILLINOIS STATE POLICE
MERIT BOARD**

**STATE OF ILLINOIS
ILLINOIS STATE POLICE MERIT BOARD**

IN THE MATTER OF

TROOPER JENNIFER L. WHISENAND
I.D. No. 6436



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**Illinois State Police
Merit Board No.**

COMPLAINT

NOW COMES Leo Schmitz, Director of the Illinois State Police, and pursuant to 20 ILCS 2610/14 and 80 Ill.Admin.Code Sec. 150.575, states as follows:

STATEMENT OF FACTS

1. Jennifer L. Whisenand (Respondent) is employed as a State Police Officer by the Illinois State Police (Department) and holds the rank of Trooper. At all times relevant to this Complaint, Respondent was assigned to District 8. Respondent has been employed by the Department since February 3, 2013.
2. At the request of the Respondent, ISP District 8 Master Sergeant Rosauero Sanchez, ID #4811, and ISP Sergeant Greg Bowers, ID #5254, met with Respondent at the Kountry Kitchen restaurant in Germantown Hills, Illinois, on June 24, 2014. During this morning meeting, Respondent informed both officers that: a) her brother-in-law at the time, Jason Buckley, a Tazewell County Sheriff's deputy, was responsible for an illegal cannabis growing operation on his property in Peoria County, Illinois, b) she personally observed said cannabis on her brother-in-law's property, c) unidentified men dressed in black clothing were in the fields at or adjacent to her brother-in-law's residence "picking" plants at night. These unidentified men used "animal calls" to signal additional waves of

people to come into the fields to pick the plants, d) her five-year-old niece, Addison Buckley, described to Respondent how to “dry” the cannabis plants and showed Respondent where her brother-in-law used bales of hay to conceal an area where Respondent’s brother-in-law would “lower” her niece to obtain the cannabis plants, and e) that Respondent attempted to capture photographic evidence of said cannabis growing operation via the installation of cameras on her brother-in-law’s property, but that an unidentified person(s) kept on removing the memory cards from the cameras.

3. At the request of her Captain, Michael Welsh, ID #3960, Respondent submitted a Memorandum on June 25, 2014, describing the events that she verbally informed the ISP officers about the day before. At the time of the allegations contained in her Memorandum to Captain Welsh, Respondent lived with her sister and her brother-in-law. Respondent’s Memorandum is attached as Exhibit 1. Respondent’s allegations were investigated by the Department and determined to be unfounded.
4. On July 11, 2014, at approximately 12:15 a.m., Respondent claimed that there were two gun shots fired from the woods south of her aunt’s, Lila Sanders, residence. Lila Sanders called 911 twice, and Peoria County Sheriff’s deputies arrived at her aunt’s residence located at 9421 South Reed City Road, Mapleton, Illinois. Respondent and her aunt informed the deputies that the suspects communicate with each other only by using “animal calls.” No suspects were identified or arrested by the Peoria County Sheriff’s Police.
5. Based upon Respondent’s unusual behavior, Respondent was placed on administrative leave with pay, effective July 15, 2014, until a fitness for duty evaluation could be conducted.

6. At the direction of the Medical Review Board, Respondent attended a fitness for duty evaluation conducted by Dr. Douglas Craig, a licensed psychologist, on July 29, 2014. Dr. Craig subsequently issued a report dated August 1, 2014, in which he found that Respondent was psychologically **unfit** for duty. Said report is attached as Exhibit 2.
7. In concluding that Respondent is unfit for duty, Dr. Craig finds that Respondent “continues to appear in an emotionally fragile state, prone to decompensation.” *Id.* at 10. Dr. Craig’s report describes incidences told to him by Respondent including but not limited to an incident in which Respondent and her sister went into the woods behind their residence in June 2014 to catch her brother-in-law having an affair with another woman. While in the woods, Respondent allegedly observed four or five men, dressed in black, “possibly Ninjas,” communicating with each other via squirrel and coyote calls. Respondent’s sister, Julie Buckley, alleged that said “Ninjas” laid on top of her in the woods for over an hour. None of the “Ninja” allegations were ever corroborated by any law enforcement agency. *Id.* at page 4.
8. After complying with treatment recommendations, Dr. Craig conducted another clinical evaluation of Respondent on October 14, 2014. At that time, Dr. Craig concluded that Respondent was fit for duty. A copy of said report is attached as Exhibit 3.
9. On March 2, 2015, Respondent met with District 8 operations Lieutenant Jason Bevard, Sergeant Jacob Tresenriter, and Sergeant Dustin Pierce at District 8 headquarters. The purpose of this meeting was to discuss a Peoria Police Department report from February 25, 2015, in which Respondent alleged that her apartment had been broken into. Respondent told Peoria police officers that she would “unload a clip” on any intruder. However, no evidence of any break-in or unlawful entry into Respondent’s apartment

was found by Peoria Police Department. In addition, ISP officers Pierce and Tresenriter examined her apartment for any evidence of forced entry and found none.

10. The next day, March 3, 2015, Respondent was placed on administrative leave with pay until a fitness for duty examination could be conducted.
11. On April 3, 2015, Dr. Craig conducted another fitness for duty examination, which culminated into another report dated April 14, 2015. A copy of said report is attached as Exhibit 4. Dr. Craig concluded that Respondent was, again, **unfit** for duty. Dr. Craig's report indicates the following diagnosis: a) Adjustment Disorder, Unspecified; b) Psychotic Disorder, NOS; and (c) Diagnosis Deferred (Personality Disorder, NOS). *See Exhibit 4*.
12. After being found unfit for duty twice by Dr. Craig, and at the direction of the Department, Respondent completed ten mental health counseling sessions with another licensed clinical psychologist, Jane Velez. Those ten sessions occurred from May 4, 2015, to July 20, 2015. Dr. Velez' report from those sessions is attached as Exhibit 5.
13. Dr. Velez reported that Respondent alleged that intruders broke into her apartment. Respondent claimed that she had a video of these incidents, which she showed to Dr. Velez. Dr. Velez found no evidence to corroborate Respondent's claims. Furthermore, Dr. Velez noted that employees of the apartment complex where Respondent lived inspected her apartment unit and found no evidence of any criminal activity. *See Exhibit 5*. Dr. Velez diagnosed Respondent with "Delusional Disorder, Persecutory Type, in which the central theme of the delusion involves a belief that the individual is being conspired against, spied on, followed, poisoned, maliciously maligned, harasses, or obstructed in the pursuit of their long-term goal (being a police

officer).” Id. Dr. Velez further concluded that Respondent “is unlikely to respond to treatment.” Id.

14. On September 16, 2015, Respondent was examined by a licensed clinical psychologist of her choosing, Dr. Luke Dalfume of Christian Psychological Associates. Dr. Dalfume completed an Illinois State Police Medical Evaluation form in which he diagnosed Respondent with “Histrionic Personality Disorder,” but noted that “her function and employability appear to be unimpaired at this time.” *See Exhibit 6.* Based upon this report, Respondent remained on administrative leave with pay until a fitness for duty examination could be conducted by a Department approved doctor.
15. On December 4, 2015, the Illinois State Police Medical Review Board ordered Respondent to attend another fitness for duty examination with a licensed clinical psychologist named Dr. Michael Bricker at the Center of Police Psychological Services in Chicago. Said fitness for duty exam was conducted on December 10, 2015. An extensive sixteen-page report was prepared by Dr. Bricker in which he diagnosed Respondent with “adjustment disorder, (unspecified), delusional disorder (persecutory type), histrionic personality disorder, and mood disorder (unspecified).” *Exhibit 7, p.15.* Dr. Bricker concluded that Respondent was unfit for duty and is “unlikely to demonstrate fitness in the near future.” Id. at p.16.
16. In arriving at his conclusion that Respondent is unfit for duty, Dr. Bricker’s report detailed Respondent’s mental health history over the 18 months prior to his evaluation of her as well as her treatment and incidents reported by her and others. Such incidents include: a) complaints by Respondent that someone was illegally entering her apartment (unfounded by apartment complex management as well as by Peoria Police Department),

b) alleged threats by Respondent that she would “unload a clip” on any intruder, c) allegations made by Respondent to apartment complex staff that others in her apartment complex are “Wiccans” and are using “magnetic fields” to move things around inside her apartment, and d) the allegation that other people are projecting images onto mirrors inside Respondent’s apartment. Exhibit 7, p.10.

17. Upon review of Dr. Bricker’s conclusions, the Illinois State Police Medical Review Board determined that Respondent cannot perform the essential functions of a sworn officer. *See* Exhibit 8 (letter to Respondent from ISP Colonel Kelly Walter, Chairman of the ISP Medical Review Board, dated February 24, 2016). In her letter informing Respondent of her employment options, ISP Colonel and Medical Review Board Chairman Kelly Walter, informed Respondent that she had two options with respect to her employment with the Department: 1) request a vocational assignment to a civilian (non-sworn) position as part of the Department’s reasonable accommodation process, or 2) resign from the Illinois State Police. Id. Respondent was given until March 9, 2016, to inform the Department which option she would choose. Id. Respondent was also informed in that same letter that if she does not choose one of the above two options by March 9, 2016, the Department will initiate proceedings to terminate her employment. Id. Respondent has failed to request a vocational reassignment or resign from the Department. As such, the Department seeks her termination.

COUNT I

18. Paragraphs 1.-18. of this Complaint are incorporated by reference as if fully stated herein. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rule of Conduct, Paragraph III.A.12., which states:

“Officers will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Officers will perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the officer's rank, grade, or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; the failure to successfully complete mandatory annual training requirements; or absence without leave. An isolated incident can be evidence of incompetency and/or unsatisfactory performance. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations, directives or orders of the Department.”

Respondent violated this rule in that she is unable to perform the essential functions of an Illinois State Trooper. Respondent is therefore unable to properly perform her duties and cannot carry out the functions and objectives of the Department in any sworn capacity.

CERTIFICATION

A copy of Illinois State Police Department Directive ROC-002, Rules of Conduct, is provided in the incorporated attachment and is certified by the Director as accurate, complete, and in full force and effect at the time the aforementioned acts were committed.

CONCLUSION

WHEREFORE, by reason of these facts and charges, I request that the Illinois State Police Merit Board conduct a hearing in this matter and terminate Respondent from employment with the Illinois State Police

Respectfully submitted,


Leo P. Schmitz, Director

Illinois State Police
801 South Seventh Street, Suite 1100-S
Springfield, Illinois 62703

OFFICE MEMORANDUM

ILLINOIS STATE POLICE

To: (Name, Division, and Office)

From: (Name, Division, and Office)

Captin Welsh #3960

Tpr J. Whisenand # 6436

Subject:

Date:

General Request

06/25/14 5:00 PM

On 06/19/2014, at approximately 6:00 p.m., I was in my bedroom watching TV when a black truck with a red tailgate made four passes in front of the house. I thought this was odd since we live on a dead end road. Early in the morning it sounded like someone was tapping on the back door with a pen. When I went to check I could not find anyone. My niece Addison then told me that is how the girl gets daddy to go outside.

On 06/16/2014 at approximately 5:30 p.m., my sister called and informed me how court had went. My sister stated that the judge said she knows that something bad is going on in the house and that my sister should file for legal separation as soon as possible. My sister started to talk about things that were brought up in court during the order of protection hearing. She said that Jason's attorney asked her if she had hired an air ops plane to fly over the house and they brought up the "weed" on the property.

On 06/19/2014 I started to notice that there were several cars passing by the house. Some were trucks with trailers but none of them appeared to be carrying furniture or stuff to indicate that someone was moving in. I started to notice the vehicles and make a list of their plates. While spending time with my niece in the front yard a truck drove past with a male driver. My niece, Addison, waved and said that was Craig Whisenand. He's a Tazewell cop. I asked her how she knows him and she said because of her daddy. I then asked her what she does with her dad? Addison took me over to the barn and pointed at a wood pile. Addison then said, "t hats weed!" Daddy cuts the weed and hangs it to dry." Addison then goes into detail about how you hang the plant upside down to dry it. She showed me the boards Jason dries things on in the barn and a place between the straw bales where he lowers her down to hide the weed. Addison then tells me that her dad tried to take the wheels off my squad car but couldn't get them off. She showed me the jack that he used and how he went about doing this. I asked Addison if she knew any other cops. Addison said she knew Halsey and described him as an older man, short hair, tall, and a friend of her dad. She next said Duro is darker skinned and bald. She then said that a really good friend of her dad's is Jason. She said he is on Peoria County with him. Addison then told me that her dad wakes her up in the morning to go out at pick the weed and purple flowers. After hearing this information I put up trail cameras to catch things on video. The trail cameras are always blank in the morning. When I looked closer I realized the cards for the cameras had been changed.

On 06/21/2014, My sister and I moved the cameras to try to catch Jason doing something. During the day traffic keeps coming down the road but no one leaves. Julie and I decided to dress in dark colors to see if we can catch Jason on video ourselves. We went into the woods dressed in dark colors with a video camera. We heard some gun shots and four older men walked into the woods on my sister's property. Soon we heard a squirrel sound and about five guys dressed in black started walking into the woods. We could hear them picking stuff. After the first group walked passed us I tried to get out but another call was given and more people dressed in black entered the woods again. When this group passed me I got up and ran out of there. My sister who was carrying the video camera was stuck there for hours. I tried to go back in to the woods pretending that her dog was lost. When I drove in I heard another animal call but saw no one. My sister finally got away in the early morning. We sat upstairs talking and heard a dog start barking. Julie went and told Jason that someone was outside. Jason said no one was out there and refused to go and check. Julie and I went outside to look around and saw Jason make a phone call. Jason also opened the windows of his bedroom and the air conditioning was on. Julie and I checked things out but were unable to find anything. The next morning when we went to check the cameras they again were blank.

On different days Jason has told me that he is allowed to have cannabis in his possession. He works with the Peoria County K9 Unit and told me he can store it in his personal safe. I told him that I don't feel that is true because there are policies that need to be followed. He guards his gun safe in the home and does not allow my sister to have access to it. Jason has also made comments stating that maybe my sister and I planted the drugs on him.

Respectfully Submitted,

Jennifer Whisenand #6436

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